

REMARKS/ARGUMENTS

Claims 1-15 are currently pending.

Claims 1-15 stand rejected under 35 U.S.C. 102(b) as being anticipated by ATM Forum, AF-VMOA-0145.000, "Voice and Multimedia Over ATM - Loop Emulation Service Using AAL2", July 2000 (hereinafter "VMOA").

Reconsideration in view of the foregoing amendments and the following remarks is respectfully requested.

Rejections under 35 U.S.C. §102

Claims 1-15 stand rejected under 35 U.S.C. 102(b) as being anticipated by VMOA.

Applicants submit that VMOA fails to teach all of the elements of independent claims 1, 5, 9, and 12. For example, claim 1 recites, in part: "control logic configured to format the channelized circuit data into one or more ATM cells, each ATM cell having a payload, the payload having a plurality of octets and corresponding validity fields, each validity field indicating whether the associated octet contains valid data." Applicants submit that VMOA fails to teach at least control logic for formatting channelized circuit data so that each ATM cell includes a payload comprising a plurality of octets and a validity field corresponding to each of the plurality of octets as recited claim 1.

The Office Action relies upon VMOA and Official Notice (which Applicant traverses below) to teach this feature of VMOA. The Examiner has taken Official Notice that the AAL2 is a type of ATM cell that includes a CRC field. Even if the AAL2 cell does include a CRC field as asserted by the Examiner, the CRC field does not teach the validity field recited in claim 1. A CRC or cyclic redundancy check is merely a checksum that may be used to determine at the receiving end of a transmission whether data associated with the CRC has been accidentally corrupted or altered during the transmission. In contrast, the validity fields recited in claim 1 advantageously provide an indicator as to whether the contents of each individual octet include data to be processed. If the validity field for an octet is marked valid, the octet includes data and should be processed at the receiving end. If the validity field for an octet is

marked invalid, the octet does not contain data and can be ignored at the receiving end. Thus, by selectively marking some octets as invalid, the channelized circuit data is transmitted at the arbitrary rate. A CRC field cannot be used to achieve this result, because the CRC field requires that *all* of the data in the ATM cell be read in order to determine if a checksum calculated for the data at the receiving end matches the value of the checksum stored in the CRC field. Therefore, the CRC of the AAL2 packets cited by the Examiner in the Official Notice perform a very different function than the validity indicators recited in claim 1.

Furthermore, even if *arguendo*, the CRC was a validity identifier as asserted by the Office Action (which it is not), the CRC applies to *every* octet of data in the payload, and thus, the CRC does not correspond to individual octets in the payload. Each of the validity indicators recited in claim 1 is associated with an octet in the payload and indicates whether the data in an *associated* octet is valid. Accordingly, the validity indicators recited in claim 1 provide a finer level of granularity than the CRC referenced by the Examiner in the Official Notice by enabling individual octets in the payload to be marked as invalid.

Therefore, VMOA fails to anticipate claim 1 for at least the reasons provided.

Independent claims 5, 9 and 12 should be allowable for similar reasons as claim 1. Furthermore dependent claims 2-4, which depend from claim 1, claims 6-9, which depend from claim 5, claims 10-11, which depend from claim 9, and claims 13-16, which depend from claim 12, should also be in condition for allowance at least due to their dependence from claims 1, 5, 9 and 12, respectively.

Accordingly, Applicants respectfully request that the rejection of claims 1-15 under 35 U.S.C. 102(b) be withdrawn.

Official Notice

The Office takes Official Notice of certain elements of claims 1, 5, 9, and 12. Applicant traverses this Official Notice. The MPEP provides that Official Notice without documentary evidence is only appropriate in "rare" cases. MPEP §2144.03(A). "It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference

where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known." *Id.*

It is respectfully suggested that the assertion that an AAL2 cell is a special kind of ATM cell that has CRC field is not capable of instant and unquestionable demonstration as being well-known.

The Applicant has therefore "specifically point[ed] out the supposed errors in the examiner's action." MPEP 2144.03(C). Because of this traversal "the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained." MPEP 2144.03(C). Moreover, "[i]f the examiner is relying on personal knowledge to support the finding of what is known in the art, the examiner must provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. MPEP 2144.03(C).

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 858-350-6100.

Respectfully submitted,



Jeffrey S. King
Reg. No. 58,791

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 858-350-6100
Fax: 415-576-0300
JSK:sjs
61252094 v1